

**DEFENSE**

**Joint Strike Fighter Program**

**Memorandum of Understanding  
Between the  
UNITED STATES OF AMERICA  
and the UNITED KINGDOM OF  
GREAT BRITAIN AND  
NORTHERN IRELAND**

Signed at Washington January 17, 2001



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966  
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

**UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND**

**Defense: Joint Strike Fighter Program**

*Memorandum of understanding signed at  
Washington January 17, 2001;  
Entered into force January 17, 2001.*

MEMORANDUM OF UNDERSTANDING BETWEEN THE SECRETARY OF  
DEFENSE ON

BEHALF OF THE

DEPARTMENT OF DEFENSE

OF THE UNITED STATES OF AMERICA

AND THE

SECRETARY OF STATE FOR DEFENCE

OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

CONCERNING THE COOPERATIVE FRAMEWORK FOR ENGINEERING AND

MANUFACTURING DEVELOPMENT OF THE

JOINT STRIKE FIGHTER

(Short Title - JSF EMD Framework MOU)

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## INTRODUCTION

The Secretary of Defense on behalf of the Department of Defense of the United States of America (U.S. DoD) and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (U.K. MOD):

Having a common interest in defense;

Recognizing the benefits to be obtained from standardization, rationalization, and interoperability of military equipments;

Desiring to improve their mutual conventional defense capabilities through the application of emerging technology;

Having a mutual need for the development of the Joint Strike Fighter to satisfy similar operational requirements; and

Recognizing the benefits of cooperation in the Joint Strike Fighter (JSF) Program;

Have reached the following understandings:

## SECTION I DEFINITIONS

The Participants have jointly decided upon the following definitions for terms used in this MOU and its Supplements:

|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Acquisition Program Baseline | A document approved by the U.S. DoD milestone decision authority at the initiation of an acquisition program that describes the important cost, schedule, and performance parameters of the program, and which is updated for each U.S. DoD major milestone decision as well as for a program restructure or a major program deviation.                                                                                                                                                                                                                                                      |
| Affordability Initiatives    | The development, assessment, demonstration and implementation of efforts that will potentially reduce the components of life cycle costs in order to promote greater JSF Program stability and long term affordability.                                                                                                                                                                                                                                                                                                                                                                      |
| Air System                   | The JSF Air System consists of two inter-related elements: Air Vehicle and Autonomic Logistics System that operate within the context of external interfaces and environments.                                                                                                                                                                                                                                                                                                                                                                                                               |
| Air System Life Cycle Plan   | A plan developed by the JSF prime Contractor that baselines the products of EMD and provides a plan for processes and procedures that will support cost-effective Air System capability. This plan addresses, but is not limited to, the operational Air System description, operational employment concepts, Air System functional allocations, Air Vehicle features and characteristics, Autonomic Logistics System capability features and characteristics, diminished manufacturing sources management plan, software development and support plans, and production manufacturing plans. |
| Air Vehicle                  | The Air Vehicle includes the three variants of the aircraft and the on-board hardware and software necessary to perform assigned missions, autonomous operation and communication with off-board systems.                                                                                                                                                                                                                                                                                                                                                                                    |

Autonomic Logistics  
System

An integrated, knowledge-based system that encompasses JSF maintenance planning, manpower and personnel, supply support, support equipment, training, technical data, computer resource support, facilities, packaging, handling, storage and transportation, prognostics and health management, and design interface while coordinating with mission planning, engineering, safety, command and control functions, within a respective logistics infrastructure to support mission execution.

Classified  
Information and  
Material

Official Information and material that requires protection in the interests of national security and is so designated by the application of a security classification marking.

Contract

Any mutually binding legal relationship under national laws which obligates a Contractor to furnish supplies or services, and obligates one or more of the Participants to pay for them.

Contract  
Specification

The detailed development specification, defined by the JSF prime Contractor, that is necessary for the successful development, verification, and validation of the JSF Air System in order to satisfy the requirements of the joint Operational Requirements Document and the Joint Model Specification.

Contracting

The obtaining of supplies or services by Contract from sources outside the government organizations of the Participants. Contracting includes description (but not determination) of supplies and services required, solicitation and selection of sources, preparation and award of Contracts, and all phases of Contract administration.



|                                           |                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Contracting Agency                        | The entity within the government organization of a Participant which has authority to enter into, administer, and/or terminate Contracts.                                                                                                                                                                                                                                    |
| Contracting Officer                       | A person representing a Contracting Agency of a Participant who has the authority to enter into, administer, and/or terminate Contracts.                                                                                                                                                                                                                                     |
| Contractor                                | Any entity awarded a Contract by a Participant's Contracting Agency.                                                                                                                                                                                                                                                                                                         |
| Controlled<br>Unclassified<br>Information | Unclassified Information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the Information is provided or generated under this MOU, the Information will be marked to identify its "in confidence" nature. It could include Information which has been declassified, but remains controlled. |
| Designated Security<br>Authority (DSA)    | The security office approved by national authorities to be responsible for the security aspects of this MOU.                                                                                                                                                                                                                                                                 |
| Financial Cost<br>Ceiling                 | The maximum amount of Financial Costs which will be dedicated to the Project.                                                                                                                                                                                                                                                                                                |
| Financial Costs                           | Project costs met with monetary contributions.                                                                                                                                                                                                                                                                                                                               |
| Financial Cost<br>Target                  | The estimated figure of the total financial cost of the Project.                                                                                                                                                                                                                                                                                                             |
| Jointly Acquired<br>Equipment             | Any material, equipment, end item, subsystem, component, special tooling or test equipment that is obtained and jointly funded by the Participants under this MOU.                                                                                                                                                                                                           |
| Joint Model<br>Specification              | The performance-based specification developed by government personnel that defines overall JSF Air System level performance.                                                                                                                                                                                                                                                 |

|                                                     |                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| JSF Autonomic Logistics Plan                        | The plan developed by the JSF prime Contractor that summarizes the development efforts to achieve a best value Autonomic Logistics System which meets joint ORD requirements.                                                                                                                                                                                                      |
| JSF Engineering and Manufacturing Development Phase | The portion of the JSF Program that will develop, test, and qualify the next-generation Air System that meets the initial operating capability requirements defined in the joint ORD.                                                                                                                                                                                              |
| JSF Program                                         | Efforts to achieve a three variant family of a next-generation Air System, consisting of JSF concept demonstration, engineering and manufacturing development, production, and support efforts.                                                                                                                                                                                    |
| JSF Purposes                                        | Performance of Project activities pursuant to the JSF EMD Framework and its Supplements; and future efforts by a Participant (collaboratively, nationally, or under U.S. DoD Foreign Military Sales arrangements) for the design, development, manufacture, operation and support of any of the three variants of the JSF Air System.                                              |
| Non-financial Costs                                 | Project costs met with non-monetary contributions.                                                                                                                                                                                                                                                                                                                                 |
| Operational Requirements Document                   | The document developed during the JSF Concept Demonstration Phase that defines the overall Air System level operational requirements needed to meet the mission objectives of each of the JSF variants.                                                                                                                                                                            |
| Participant                                         | A signatory to this Memorandum of Understanding.                                                                                                                                                                                                                                                                                                                                   |
| Patent                                              | Legal protection of the right to exclude others from making, using, or selling an invention. The term refers to any and all Patents including, but not limited to, patents of implementation, improvement, or addition, petty patents, utility models, appearance design patents, registered designs, and inventor certificates or like statutory protection as well as divisions, |

reissues, continuations, renewals, and extensions of any of these.

Project

The cooperative JSF EMD Phase efforts of the Participants under this MOU to achieve the objectives in Section II (Objectives) and accomplish the work in Section III (Scope of Work).

Project Background Information

Information not generated in the performance of the Project.

Project Equipment

Any material, equipment, end item, subsystem, component, special tooling or test equipment provided by one Participant to another Participant for use in the Project.

Project Foreground Information

Information generated in the performance of the Project.

Project Information

Any Information provided to, generated in, or used in this Project.

Information

Knowledge that can be communicated by any means, regardless of form or type, including, but not limited to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, computer software, designs, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form and whether or not subject to copyright, Patent, or other legal protection.

Project Invention

Any invention or discovery formulated or made (conceived or first actually reduced to practice) in the course of work performed under the Project. The term first actually reduced to practice means the first demonstration, sufficient to establish to one skilled in the art to which the invention pertains, of the operability of an invention for its intended purpose and in its intended environment.

Then Year (TY)  
Dollars

U.S. Dollars which reflect purchasing power at the time expenditures are actually made. Future costs stated in Then Year U.S. Dollars are projected actual amounts to be paid.

Third Party

A government other than the government of a Participant and any person or other entity whose government is not the government of a Participant.

## SECTION II OBJECTIVES

2.1. This MOU establishes a framework that will enable Participants to cooperate effectively in the Project. Whilst the U.S. DoD and the U.K. MOD will initially enter into this MOU, this MOU is intended to be the vehicle for multinational JSF EMD cooperation, and it establishes the principles common to all Participants who enter into it. Pursuant to this MOU and subject to its common principles, there will be established Supplements, specific to a level of Project participation, between or among the U.S. DoD and the other Participant or Participants at that level. The Supplements will contain detailed provisions concerning the responsibilities and benefits that correspond to the relevant level of participation. In the case of a conflict between the provisions of this MOU and a Supplement, this MOU will govern; however, a Supplement may contain deviations from the provisions of this MOU as are specifically authorized elsewhere in this MOU.

2.2. The objectives of this Project are:

2.2.1. To develop an affordable Air System that meets the operational needs of the Participants at a significantly reduced life cycle cost.

2.2.2. To mature the Air System design to a level that will enable transition to production and subsequent fielding of operational squadrons.

2.2.3. To demonstrate and implement Affordability Initiatives to support the decision for JSF production.

2.2.4. To develop and implement management and control processes to ensure the Participants receive best value within the Financial Cost Target.

2.2.5. To utilize Project Information acquired in the implementation of Section III (Scope of Work) to enable the Participants to make national decisions concerning the acquisition of the JSF Air System for their individual requirements, and to enable them to interface the JSF Air System with their unique national weapons systems, logistics support systems, equipment, or software for national operations of the JSF Air System.

2.3. Participation under this MOU will provide the Participants with the opportunity for future cooperation in JSF developmental

upgrades, production and support. Such future cooperation will be the subject of separate written arrangements by the Participants, or amendments to this MOU and its Supplements.

### SECTION III SCOPE OF WORK

3.1. The overall work to be performed under this MOU is to conduct the Project which will lead to the production and use of an affordable three variant family of the next generation Air System, which consists of the following: Conventional Take-Off and Landing (CTOL) variant; catapult-launched, arrested-landing Carrier Variant (CV); and shipboard capable Short Take-Off and Vertical Landing (STOVL) variant. The Project effort will be conducted in accordance with the Contract Specification, Contract statement of work and Integrated Master Plan and will reflect the Air System requirements contained in the joint Operational Requirements Document (ORD) and further detailed in the Joint Model Specification (JMS). The Project will include the following JSF EMD Phase efforts.

3.1.1. Conduct of design, development, integration, verification and systems engineering to deliver the Air System warfighting capability required by the JMS. Such efforts will exploit, to the maximum extent practicable, concepts and technology maturation demonstrations and modeling and simulation and analysis capabilities. This will include, but not be limited to, the following salient tasks:

3.1.1.1. Design, development and integration of hardware and software for the Air Vehicle.

3.1.1.2. Design, development and integration of the primary and alternate propulsion systems.

3.1.1.3. Design, development and integration of a mission planning interface capability compatible with existing and planned systems.

3.1.1.4. Design, development and integration of weapons to support the initial operational capability requirements defined in the joint ORD.

3.1.1.5. Design, development and integration of an Autonomic Logistics System which meets the joint ORD requirements; the optimizing of sortie generation rate; minimization of logistic requirements; and reduction of manpower, logistics infrastructure, and operations and support costs.

3.1.1.6. Verification and certification of production-representative Air Systems, leading to operational test and evaluation validation of joint ORD requirements for each Air System variant.

3.1.2. Demonstration of sufficient Air System maturity to enter low-rate and full-rate production, to include:

3.1.2.1. Construction of CTOL, CV, and STOVL ground test articles and flight-test aircraft.

3.1.2.2. Conduct of CTOL, CV, and STOVL ground tests and flight tests by or for the Participants.

3.1.2.3. Development of a multi-service Air System Life Cycle Plan.

3.1.2.4. Development of a manufacturing plan for fabrication and assembly of the EMD Air Vehicle. Efforts are expected to include manufacturing and production demonstrations required to achieve the overall JSF affordability objectives and to support key JSF Program review milestones.

3.1.3. Demonstration and implementation of Affordability Initiatives that will support a production decision, to include:

3.1.3.1. Application of cost-as-an-independent-variable principles to refine the development, production, operations and support costs.

3.1.3.2. Development of a common cost model to generate life cycle cost estimates to validate Affordability Initiatives.

3.1.4. Development and implementation of streamlined management and control processes, which use integrated product and process development, simulation-based acquisition practices, earned value, technical performance measures and risk management tracking systems as management tools, to promote efficiency, effectiveness, and best value in the conduct of the JSF EMD Phase.

3.2 The U.S. DoD will use its best efforts to review expeditiously applications for U.S. export licenses related to the scope of work for this Project.

3.3. If desired by the Participants, planning efforts, including development of objectives and scope of work for the Participants' future cooperation in JSF developmental upgrades, production and support, and corresponding draft requests for proposals, may be conducted.



SECTION IV  
MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

4.1. The JSF Program will be directed by the U.S. DoD JSF Program Director (PD) who heads the JSF Program Office (or successor in the event of reorganization) and who is responsible for managing the cost, schedule, performance requirements, and technical aspects of the JSF Program in accordance with the U.S. DoD Acquisition Program Baseline for JSF. A JSF Executive Committee (EC) will be established, with executive-level oversight for the Project. The JSF PD will have primary responsibility for management of the Project, and, recognizing the international nature of the Project, will promote international cooperation throughout the JSF Program Office in order to meet the requirements of this MOU and its Supplements. The JSF PD will promptly notify the EC in case of any change to the joint ORD or the Acquisition Program Baseline. The EC will advise the JSF PD as to what action should be taken.

4.2. The EC will consist of one representative appointed by each of the Participants. The U.S. DoD EC representative will be the JSF PD; the EC representatives for the other Participants will be specified in the Supplements. The EC will meet semi-annually. If desired, additional meetings may be held at the mutual consent of all the EC representatives. The representative of the Participant hosting the meeting will chair each meeting of the EC, unless otherwise mutually determined by the EC. The responsibility for hosting meetings of the EC will alternate among the Participants, unless otherwise mutually determined by the EC.

4.3. In exercising its executive-level oversight of the Project, the EC will perform the following functions:

4.3.1. Reviewing progress towards accomplishing Section II (Objectives) and Section III (Scope of Work).

4.3.2. Providing financial oversight of Project efforts to ensure compliance with the provisions of Section V (Financial Provisions).

4.3.3. Reviewing and obtaining approval from the appropriate Designated Security Authority of a Project Security Instruction and a Classification Guide prior to the transfer of Classified Information and Material or Controlled Unclassified Information.

4.3.4. Monitoring the transfer of Project Equipment provided by any Participant to support the execution of the Project pursuant to Section VII (Project Equipment).

4.3.5. Maintaining oversight over the security aspects of the Project to ensure compliance with Section XI (Security).

4.3.6. Monitoring Third Party sales and transfers authorized in accordance with Section XII (Third Party Sales and Transfers).

4.3.7. Promptly apprising and consulting on any matters that affect the Project and resolving any issues brought forth by the U.S. DoD Director, JSF International Directorate (JSF/ID).

4.3.8. Identifying and reviewing plans regarding future JSF cooperation.

4.4. Decisions of the EC will be made unanimously with regard to the following responsibilities:

4.4.1. Reviewing and forwarding to the Participants for approval recommended amendments to this MOU in accordance with Section XVIII (Amendment, Withdrawal, Termination, Entry into Effect, and Duration).

4.4.2. Approving plans for the disposal of Jointly Acquired Equipment in accordance with paragraph 7.7 of Section VII (Project Equipment).

4.5. In addition to plenary sessions of the EC, the EC representatives of the Participants of a Supplement may separately meet to address issues arising under or specifically related to their respective Supplement. The responsibilities of the EC representatives of the Participants of each Supplement will be in accordance with the provisions of this MOU and will be further detailed in the Supplement. Decisions will be made unanimously among or between the EC representatives of the Participants of a Supplement with regard to the following responsibilities:

4.5.1. Approving the Financial Management Procedures Document (FMPD) for the Supplement required in paragraph 5.8 of Section V (Financial Provisions).

4.5.2. Approving plans to manage and control the transfer of Project Equipment provided by the non-U.S. DoD Participant(s) of the Supplement to support the execution of the Project in accordance with Section VII (Project Equipment).

4.5.3. Reviewing and forwarding to the Participants of the Supplement for approval recommended amendments to the

Supplement in accordance with Section XVIII (Amendment, Withdrawal, Termination, Entry into Effect, and Duration).

4.6. In the event that the EC is unable to reach a timely decision on an MOU issue where unanimity is required under paragraph 4.4, or the EC representatives of the Participants of a Supplement are unable to reach a timely decision on a Supplement issue where unanimity is required under paragraph 4.5, each applicable EC representative will refer the issue to its higher authority for resolution. In the meantime, the Project will continue to be implemented without interruption under the direction of the JSF PD while the issue is being referred to the appropriate higher authorities.

4.7. The Director, JSF/ID, assisted by representatives of all of the other Participants, will act as the focal point within the JSF Program Office for effective implementation of this MOU and its Supplements. The Director, JSF/ID will be responsible for:

4.7.1. Managing the day-to-day administration of this MOU and its Supplements.

4.7.2. Preparing and submitting to the applicable EC representatives for approval, a FMPD for each Supplement.

4.7.3. Executing the financial aspects of this Project in accordance with Section V (Financial Provisions) and the FMPD for each Supplement.

4.7.4. Preparing and submitting to the EC a Project Security Instruction and a Classification Guide.

4.7.5. Developing and recommending to the applicable EC representatives Amendments to this MOU and any Supplements.

4.7.6. Developing and implementing plans, approved by applicable EC representatives, to manage and control the transfer of Project Equipment provided by a Participant in accordance with Section VII (Project Equipment and Jointly Acquired Equipment).

4.7.7. Developing and implementing EC-approved plans for the disposal of Jointly Acquired Equipment in accordance with paragraph 7.7 of Section VII (Project Equipment and Jointly Acquired Equipment).

4.7.8. Developing and recommending plans to the EC, as appropriate, for future cooperation in the JSF production and support phases.

4.7.9. Referring MOU issues to the EC that cannot be resolved by JSF/ID.

4.8. Each Participant, other than the U.S. DoD, will provide a National Deputy to the JSF Program Office. The roles and responsibilities of the National Deputy and any other representatives provided by each Participant will be addressed in each Supplement to this MOU.

## SECTION V FINANCIAL PROVISIONS

5.1. The Participants estimate that the performance of their responsibilities under this Project will not cost more than a Financial Cost Ceiling of \$28.283 billion Then Year (TY) U.S. dollars. The Financial Cost Ceiling may be changed only upon the written consent of the Participants.

5.2. The Participants will use their best efforts to perform, or have performed, the work specified in Section III (Scope of Work) of this MOU and fulfill all their responsibilities under this Project within a Financial Cost Target of \$25.712 billion TY U.S. dollars. If at any time the JSF PD has reason to believe that the Financial Cost Target will be exceeded, the JSF PD will promptly notify the EC and will formulate a new estimate of the Financial Cost Target together with supporting documentation. The EC will advise the JSF PD as to what action should be taken.

5.3. The U.S. dollar will be the reference currency for the Project, and the Project fiscal year will be the U.S. fiscal year (1 October - 30 September). Financial contributions will be made in TY U.S. dollars in accordance with the Financial Management Procedures Document (FMPD) for each Supplement.

5.4. Each Participant will contribute its equitable share of the full Financial Costs and Non-financial Costs of the Project, including overhead costs, administrative costs (including the costs of JSF/ID staff travel in support of Project efforts that are approved by the Director, JSF/ID), and costs of claims, and will receive an equitable share of the results of the Project, as specified in this MOU and its Supplements.

5.5. The maximum U.S. DoD share of the Financial Cost Target for the Project, as identified in paragraph 5.2, will not exceed \$23.656 billion TY U.S. Dollars. The actual U.S. DoD share of this Financial Cost Target will be affected by the Financial Cost shares contributed by the Participants who join the MOU subsequent to the U.S. DoD and the U.K. MOD. The Financial Cost shares of Participants other than the U.S. DoD will be specified in the respective Supplements to this MOU.

5.6. Participation in the Project will also include, but not be limited to, a Non-financial Cost contribution of personnel to the JSF Program Office and U.S. DoD field activities. The U.S. Non-financial cost contribution includes the JSF PD and the Director, JSF/ID. The Supplements will specify the Non-financial Cost contributions of the Participants to that Supplement.

5.7. The following costs will be borne entirely by the Participant incurring the costs or on whose behalf the costs are incurred:

5.7.1. Costs associated with national representation at meetings by personnel not assigned, as part of this Project, to the JSF Program Office or U.S. DoD field activities.

5.7.2. Costs associated with any unique national requirements identified by a Participant.

5.7.3. Any other costs not expressly stated as shared costs or any costs that are outside the scope of this MOU.

5.8. The Director, JSF/ID will be responsible for establishing arrangements between the Participants on the detailed financial management procedures under which the Project will operate. These procedures will be detailed in the FMPD for each Supplement and must accord with the national accounting and audit requirements of the Participants of each Supplement. Each FMPD will include an estimated financial schedule for contributions, which will be consistent with the funding requirements of paragraph 5.9.

5.9. The Participants recognize that in fulfilling their Contracting responsibilities under this MOU, it may become necessary for a Contracting Participant to incur contractual or other obligations for the benefit of the Participants prior to the receipt of the other Participants' funds. In the event that a Contracting Participant incurs such obligations, the other Participants will make such funds available in such amounts and at such times as may be required by the Contracts or other obligations and will pay any damages and costs that may accrue from the performance of or cancellation of the Contracts or other obligations in advance of the time such payments, damages, or costs are due.

5.10. A Participant will promptly notify the other Participants if available funds are not adequate to fulfill its responsibilities for this Project. If a Participant notifies the other Participants that it is terminating or reducing its funding for this Project, all Participants will immediately consult through the EC with a view toward continuation on a modified basis.

5.11. Each Contracting Participant will be responsible for the audit of the procurement activities for which it is responsible under the Project in accordance with its national practices. Each Contracting Participant's reports of such audits will be promptly made available to the other Participants. The U.S. DoD will be responsible for the internal audit regarding administration of

the other Participants' Project funds in accordance with U.S. national practices. Audit reports of such funds will be promptly made available by the U.S. DoD to the other Participants.

## SECTION VI CONTRACTING PROVISIONS

6.1. The U.S. DoD will be primarily responsible for Contracting for the Project in accordance with U.S. Contracting laws, regulations and procedures. However, the JSF PD may request that a Participant other than the U.S. DoD issue Contracts for the Project in accordance with that Participant's national Contracting laws, regulations and procedures. The Contracting Officer for each Contract is the exclusive source for providing contractual direction and instructions to Contractors.

6.2. The JSF PD will be responsible for the coordination of activities relating to the Project, and will cooperate with the Contracting Officers in the areas of Contract procedures, Contract negotiation, evaluation of offers, and Contract award. The JSF PD will review statements of work prior to the development of solicitations to ensure that they are in accordance with this MOU. In addition, Contracting Officers will keep the JSF PD advised of all financial arrangements with the prime Contractor.

6.3. Contracting Officers will negotiate to obtain the rights to use and disclose Project Information required by Section VIII (Disclosure and Use of Project Information) and by the corresponding sections of each of the Supplements. Contracting Officers will insert into prospective Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this MOU and all of the Supplements, including Section VIII (Disclosure and Use of Project Information), Section IX (Controlled Unclassified Information), Section XI (Security) and Section XII (Third Party Sales and Transfers). During the Contracting process, Contracting Officers will advise prospective Contractors of their responsibility to immediately notify the Contracting Agency, before Contract award, if they are or will be subject to any license or agreement that will restrict their freedom to disclose Information or permit its use. Contracting Officers will also advise prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that will result in restrictions.

6.4. In the event a Contracting Officer is unable to secure adequate rights to use and disclose Project Information as required by Section VIII (Disclosure and Use of Project Information) and by the corresponding section of the Supplements, or is notified by Contractors or potential Contractors of any restrictions on the disclosure and use of Information, the matter will be referred to the EC for resolution.



6.5. A Participant may contract for the unique national requirements of the other Participants which are related to the efforts described in Section III (Scope of Work).

6.6. In order to promote achieving best value for money, the U.S. DoD, through its contracting activities, will require Contractors to select subcontractors (which term includes subcontractors from all of the Participants' nations) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contracts.

SECTION VII  
PROJECT EQUIPMENT AND JOINTLY ACQUIRED EQUIPMENT

7.1. Each Participant may provide Project Equipment identified as being necessary for executing this MOU to another Participant. Project Equipment will remain the property of the providing Participant. A list of all Project Equipment provided by one Participant to another Participant will be developed and maintained by the JSF Program Office.

7.2. The receiving Participant will maintain any such Project Equipment in good order, repair, and operable condition and return the items in as good condition as received, normal wear and tear excepted, unless the providing Participant has authorized the Project Equipment to be expended or otherwise consumed in connection with the Project without reimbursement to the providing Participant. The receiving Participant will pay the cost of damage (other than normal wear and tear) to or loss of Project Equipment.

7.3. The providing Participant will deliver Project Equipment to the receiving Participant at a mutually determined location. Possession of the Project Equipment will pass from the providing Participant to the receiving Participant at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving Participant.

7.4. All Project Equipment that is transferred will be used by the receiving Participant only for the purposes of carrying out this MOU unless otherwise consented to in writing by the providing Participant. In addition, in accordance with Section XII (Third Party Sales and Transfers), Project Equipment will not be re-transferred to a Third Party without the prior written consent of the providing Participant.

7.5. Project Equipment transferred to another Participant under this MOU will be returned to the providing Participant prior to the termination or expiration of this MOU.

7.6. Either during or upon cessation of the Project, the U.S. DoD may, after consultation with the other Participants, dispose of or retain any Jointly Acquired Equipment. Disposal by the U.S. DoD may include the transfer of such equipment to another Participant. If the U.S. DoD's disposal of any Jointly Acquired Equipment is by sale to a Third Party in accordance with Section XII (Third Party Sales and Transfers) of this MOU, the Participants will share the consideration from such sale in the same ratios as specified for their financial contributions in this MOU and its Supplements.

7.7. If the U.S. DoD does not exercise its benefits under paragraph 7.6, any Jointly Acquired Equipment under this JSF EMD Framework MOU may be disposed of during the Project or when the Project ceases as decided by the EC. Disposal of Jointly Acquired Equipment may include a transfer of the interest of one Participant in such project equipment to another Participant, or the sale of such equipment to a Third Party in accordance with Section XII (Third Party Sales and Transfers) of this MOU. The Participants will share the consideration from Jointly Acquired Equipment transferred or sold to a Third Party in the same ratios as specified for their financial contributions in this MOU and its Supplements.

SECTION VIII  
DISCLOSURE AND USE OF PROJECT INFORMATION

8.1. General

8.1.1. The Participants recognize that successful collaboration depends on the exchange of Information necessary for carrying out this Project. The Participants intend to acquire and exchange sufficient Project Information and rights to use such Information to enable the execution of the Project and the transition to production and support of the three variant family of the next generation Air System. The nature and amount of Project Information to be acquired will be consistent with the objectives stated in Section II (Objectives) and Section III (Scope of Work).

8.1.2. Notwithstanding any other provision in this section, disclosure of Project Information will only be in accordance with the Participants' respective national disclosure policies. The Participants will use their best efforts to maximize disclosure of Project Information under this MOU within national disclosure policies. Specific disclosure limitations will be described in the Supplements as appropriate.

8.1.3. The Participants recognize that the majority of the Project Foreground Information will be provided electronically. The extent and manner in which such electronically provided Information will be made available to Participants will be described in the Supplements.

8.2. Government Project Foreground Information

8.2.1. Disclosure: All Project Foreground Information generated by a Participant's military or civilian employees (hereinafter referred to as "Government Project Foreground Information") will be disclosed promptly and without charge to the Participants.

8.2.2. Use: The Participants may use or have used all Government Project Foreground Information without charge for the following purposes: for each Participant other than the U.S. DoD, the purposes specified for that Participant in its Supplement; and for the U.S. DoD, JSF Purposes. The Participant generating Government Project Foreground Information will also retain its rights of use thereto. Any sale or other transfer to a Third Party will be subject to

the provisions of Section XII (Third Party Sales and Transfers) of this MOU.

### 8.3. Government Project Background Information

8.3.1. Disclosure: Each Participant, upon request, will disclose promptly and without charge to the requesting Participant any relevant Government Project Background Information generated by its military or civilian employees, provided that:

8.3.1.1. Such Government Project Background Information is necessary to or useful in the Project, with the Participant in possession of the Information determining, after consultation with the requesting Participant, whether it is "necessary to" or "useful in" the Project.

8.3.1.2. Such Government Project Background Information may be made available without incurring liability to holders of proprietary rights; and

8.3.1.3. Disclosure is consistent with national disclosure policies and regulations of the furnishing Participant.

8.3.2. Use: Government Project Background Information furnished by one Participant to the requesting Participant may be used without charge by or for the requesting Participant for Project purposes; however, the furnishing Participant will retain all its rights with respect to such Government Project Background Information.

### 8.4. Contractor Project Foreground Information

8.4.1. Disclosure: Project Foreground Information generated and delivered by Contractors (hereinafter referred to as "Contractor Project Foreground Information"), will be disclosed promptly and without charge to the Participants. Project Foreground Information generated by a Contractor, but not delivered, will be made available upon the request of the Participants at the cost of the Information's conversion into the prescribed form and the cost of reproduction and delivery in accordance with the terms of the applicable Contract.

8.4.2. Use: The Participants may use or have used without charge all Contractor Project Foreground Information generated and delivered by Contractors of the Participants for the following purposes: for each Participant other than

the U.S. DoD, the purposes specified for that Participant in its Supplement; and for the U.S. DoD, JSF Purposes. The Participant whose Contractors generate and deliver Contractor Project Foreground Information will also retain rights of use thereto in accordance with the applicable Contract(s). Any sale or other transfer to a Third Party of Contractor Project Foreground Information will be subject to the provisions of Section XII (Third Party Sales and Transfers) of this MOU.

#### 8.5. Contractor Project Background Information

8.5.1. Disclosure: A Contracting Participant will make available to the other Participants promptly and without charge all Project Background Information generated by Contractors which is delivered under Contracts awarded in accordance with this MOU. Any other Project Background Information which is generated by Contractors under Contracts awarded outside of this MOU and which is in the possession of one Participant will be made available promptly and without charge to another Participant upon its request, provided that the following conditions are met:

8.5.1.1. Such Contractor Project Background Information is necessary to or useful in the Project, with the Participant in possession of the Information determining, after consultation with the other Participants, whether it is "necessary to" or "useful in" the Project;

8.5.1.2. Such Contractor Project Background Information may be made available without incurring liability to holders of proprietary rights; and

8.5.1.3. Disclosure is consistent with national disclosure policies and regulations of the furnishing Participant.

8.5.2. Use: All Project Background Information delivered by Contractors under Contracts awarded in accordance with this MOU may be used by or for a receiving Participant, without charge, for the following purposes: for each Participant other than the U.S. DoD, the purposes specified for that Participant in its Supplement; and for the U.S. DoD, JSF Purposes. Any other Project Background Information furnished by one Participant's Contractors and disclosed to another Participant may be used without charge by or for that Participant for Project purposes, and may be subject to further restrictions by holders of proprietary rights. The

furnishing Participant will retain all its rights with respect to Contractor Project Background Information.

#### 8.6. Alternative Uses of Project Information

8.6.1. The prior written consent of the U.S. DoD will be required for the use of Project Foreground Information by the other Participants for purposes other than those provided for in paragraphs 8.2.2 and 8.4.2 of this MOU and the corresponding provisions of its Supplements.

8.6.2. Any Project Background Information provided by one Participant will be used by the other Participants only for the purposes set forth in this MOU and its Supplements, unless otherwise consented to in writing by the providing Participant.

#### 8.7. Proprietary Project Information

8.7.1. All Project Information subject to proprietary interests will be identified and marked, and it will be handled as Controlled Unclassified Information or as Classified Information, depending on its security classification.

8.7.2. For NATO member Participants, the provisions of the NATO Agreement on the Communication of Technical Information for Defense Purposes, done at Brussels on 19 October 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defense Purposes, approved by the North Atlantic Council on 1 January 1971, will apply to proprietary Project Information related to this MOU. Non-NATO member Participants will consent in their Supplements to provisions no less stringent than the NATO Agreement on the Communication of Technical Information for Defense Purposes.

#### 8.8. Patents

8.8.1. Each Participant will include in all its Contracts for the Project a provision governing the disposition of rights in regard to Project Inventions and Patent rights relating thereto, which either:

8.8.1.1. Provides that the Participant will hold title to all such Project Inventions together with the right to make Patent applications for the same, free of encumbrance from the Contractor concerned; or

8.8.1.2. Provides that the Contractor will hold title (or may elect to retain title) for such Project Inventions together with the right to make Patent applications for the same, while securing for the Participants a license for the Project Inventions, and any Patents thereto, on terms in compliance with the provisions of paragraph 8.8.2 below.

8.8.2. In the event that a Contractor holds title (or elects to retain title) for any Project Invention, the Contracting Participant will secure for the other Participants non-exclusive, irrevocable, royalty-free licenses under all Patents secured for that invention, to practice or have practiced the patented Project Invention for the following purposes: for each Participant other than the U.S. DoD, the purposes specified for that Participant in its Supplement; and for U.S. DoD, JSF Purposes.

8.8.3. The provisions of subparagraphs 8.8.4 through 8.8.7 below will apply in regard to Patent rights for all Project Inventions made by the Participants' military or civilian employees, including those within Government-owned facilities, and for all Project Inventions made by Contractors for which the Contracting Participant holds title or is entitled to acquire title.

8.8.4. Where a Participant has or can secure the right to file a Patent application with regard to a Project Invention, that Participant will consult the other Participants regarding the filing of such Patent application. The Participant which has or receives title to such Project Invention will, in other countries, file, cause to be filed, or provide the other Participants with the opportunity to file, on behalf of the Participant holding title, Patent applications covering that Project Invention. If a Participant, having filed or caused to be filed a Patent application, decides to stop prosecution of the application or to cease maintaining the Patent granted or issued on the application, that Participant will notify the other Participants of that decision and permit the other Participants to continue the prosecution, or maintain the Patent as the case may be. However, in those cases where the U.S. DoD decides to stop prosecution of a Patent for which it has filed an application, or ceases to maintain a Patent which has been granted on that application, the U.S. DoD will first offer to the U.K. MOD the opportunity to continue the prosecution, or maintain the Patent as the case may be.



8.8.5. Each Participant will be furnished with copies of the Patent applications filed and Patents granted with regard to Project Inventions.

8.8.6. Each Participant will grant to the other Participant a non-exclusive, irrevocable, royalty-free license under its Patents for Project Inventions, to practice or have practiced the Project Invention for the following purposes: for each Participant other than the U.S. DoD, the purposes specified for that Participant in its Supplement; and for U.S. DoD, JSF Purposes, unless otherwise specified in a Supplement.

8.8.7. Patent applications to be filed under this MOU that contain Classified Information will be protected and safeguarded in accordance with the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defence and for which Applications for Patents have been Made, done in Paris on 21 September 1960, and its Implementing Procedures.

8.8.8. Each Participant will notify the other Participants of any Patent infringement claims made in its territory arising in the course of work performed under the Project. Insofar as possible, the other Participants will provide Information available to them that may assist in defending the claim. Each Participant will be responsible for handling all Patent infringement claims made in its territory, and will consult with the other Participants during the handling, and prior to any settlement, of such claims. The Participants will share the costs of resolving Patent infringement claims in the same ratios as specified for their financial contributions in this MOU and the Supplements. The Participants will, in accordance with their national laws and practices, give their authorization and consent for all use and manufacture in the course of work performed under the Project of any invention covered by a Patent issued by their respective countries.

SECTION IX  
CONTROLLED UNCLASSIFIED INFORMATION

9.1. Except as otherwise provided in this MOU or authorized in writing by the originating Participant, Controlled Unclassified Information provided or generated pursuant to this MOU will be controlled as follows:

9.1.1. Such Information will be used only for the purposes authorized for use of Project Information as specified in Section VIII (Disclosure and Use of Project Information).

9.1.2. Access to such Information will be limited to personnel whose access is necessary for the permitted use under subparagraph 9.1.1, and will be subject to the provisions of Section XII (Third Party Sales and Transfers).

9.1.3. Each Participant will take all lawful steps, which may include national classification, available to it to keep such Information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 9.1.2, unless the originating Participant consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the Information may have to be further disclosed under any legislative provision, immediate notification will be given to the originating Participant.

9.2. To assist in providing the appropriate controls, the originating Participant will ensure that Controlled Unclassified Information is appropriately marked. The Participants will decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings will be defined in the Project Security Instruction for this MOU.

9.3. Controlled Unclassified Information provided or generated pursuant to this MOU will be handled in a manner that ensures control as provided for in paragraph 9.1.

9.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Participants will ensure the Contractors are legally bound to control such Information in accordance with the provisions of this Section.

SECTION X  
VISITS TO ESTABLISHMENTS

10.1. Each Participant will permit visits to its government establishments, agencies and laboratories, and Contractor industrial facilities by employees of another Participant or by employees of another Participant's Contractors, provided that the visit is authorized by the Participants involved in the visit and the employees have any necessary and appropriate security clearances and a need-to-know.

10.2. All visiting personnel will be required to comply with security regulations of the host Participant. Any Information disclosed or made available to visitors will be treated as if supplied to the Participant sponsoring the visiting personnel, and will be subject to the provisions of this MOU.

10.3. Requests for visits by personnel of one Participant to a facility of another Participant will be coordinated through official channels, and will conform with the established visit procedures of the host country. Requests for visits will bear the name of the Project.

10.4. Lists of personnel of each Participant required to visit, on a continuing basis, facilities of another Participant will be submitted through official channels in accordance with Recurring International Visit Procedures.

## SECTION XI SECURITY

11.1. All Classified Information and Material provided or generated pursuant to this MOU will be stored, handled, transmitted, and safeguarded in accordance with the Security Agreement between the government of the United States and the government of each Participant as specified in each Supplement to this MOU. In addition, the following security provisions will also apply.

11.2. Classified Information and Material will be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities (DSAs) of the Participants. Such Information and material will bear the level of classification, denote the country of origin, the conditions of release, and the fact that the Classified Information and Material relates to this MOU. Each Participant will take steps to facilitate the transfer of such Classified Information and Material in a timely manner.

11.3. Each Participant will take all lawful steps available to it to ensure that Classified Information and Material provided or generated pursuant to this MOU is protected from further disclosure, except as provided by paragraph 11.8, unless the other Participants consent to such disclosure. Accordingly, each Participant will ensure that:

11.3.1. The recipients will not release the Classified Information and Material to any government, national, organization, or other entity of a Third Party except as permitted under the procedures described in Section XII (Third Party Sales and Transfers).

11.3.2. The recipients will not use the Classified Information and Material for other than the purposes provided for in this MOU.

11.3.3. The recipients will comply with any distribution and access restrictions on Classified Information and Material that is provided under this MOU.

11.4. The Participants will investigate all cases in which it is known or where there are grounds for suspecting that Classified Information and Material provided or generated pursuant to this MOU has been lost or disclosed to unauthorized persons. Each Participant also will promptly and fully inform the other Participants of the details of any such occurrences, and of the

final results of the investigation and of the corrective action taken to preclude recurrences.

11.5. The DSA of the country in which a classified contract is awarded will assume responsibility for administering within its territory security measures for the protection of the Classified Information and Material, in accordance with its laws and regulations. Prior to the release to a Contractor, prospective Contractor or sub-contractors of any Classified Information and Material received under this MOU, the DSAs will:

11.5.1. Ensure that such Contractor, prospective Contractor or sub-contractors and their facilities have the capability to protect the Classified Information and Material adequately.

11.5.2. Grant a security clearance to the facilities, if appropriate.

11.5.3. Grant a security clearance for all personnel whose duties require access to Classified Information and Material, if appropriate.

11.5.4. Ensure that all personnel having access to Classified Information and Material are informed of their responsibilities to protect the Information in accordance with national security laws and regulations and the provisions of this MOU.

11.5.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information and Material is properly protected.

11.6. The Director, JSF/ID will prepare the Project Security Instruction (PSI) and the Classification Guide (CG) for this MOU. The PSI and CG will describe the methods by which Project Information and material will be classified, marked, used, transmitted, and safeguarded. The PSI and CG will be developed by the Director, JSF/ID within three months after this MOU enters into effect. They will be reviewed and forwarded to the appropriate DSAs, and will be applicable to government and Contractor personnel participating in the Project. The CG will be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The PSI and CG for this MOU will be approved by the appropriate DSAs prior to the transfer of any Classified Information and Material or Controlled Unclassified Information to a Participant.

11.7. Contractors, prospective Contractors, or subcontractors which are determined by DSAs to be under financial,

administrative, policy or management control of nationals or entities of a Third Party, may participate in a Contract or subcontract requiring access to Classified Information and Material provided or generated pursuant to this MOU only when enforceable measures are in effect to ensure that nationals or entities of a Third Party will not have access to Classified Information and Material. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Participants will be consulted for approval prior to permitting such access.

11.8. For any facility wherein Classified Information and Material is to be used, the responsible Participant or Contractor will approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the Information or material pertaining to this MOU. These officials will be responsible for limiting access to Classified Information and Material involved in this MOU to those persons who have been properly approved for access and have a need-to-know.

11.9. Each Participant will ensure that access to Classified Information and Material is limited to those persons who possess requisite security clearances and have a specific need for access to the Classified Information and Material in order to participate in the Project.

11.10. Information or material provided or generated pursuant to this MOU may be classified as high as SECRET. The existence of this MOU is UNCLASSIFIED and the contents are UNCLASSIFIED.

SECTION XII  
THIRD PARTY SALES AND TRANSFERS

12.1. The U.S. DoD will not sell, transfer title to, disclose, or transfer possession of Project Foreground Information, Jointly Acquired Equipment or any item produced either wholly or in part from Project Foreground Information to any Third Party without prior consultation with the other Participants. Furthermore, the U.S. DoD will not permit any such sale, disclosure, or transfer by others, including the owner of the item, without prior consultation with the other Participants. The U.S. DoD recognizes the importance to the other Participants of U.S. DoD decisions on such potential sales, disclosures, and transfers which take into account the views on security matters held by the other Participants. The U.S. DoD recognizes that sales, disclosures, or other transfers described in this paragraph will only be made if the government of the intended recipient consents in writing that it will:

12.1.1. Not transfer, or permit the further retransfer of, any equipment or Information provided.

12.1.2. Use, or permit the use of, the equipment or Information provided only for the purposes for which such equipment or Information is furnished.

12.2. The other Participants will not sell, transfer title to, disclose, or transfer possession of Project Foreground Information, Jointly Acquired Equipment, or any item produced either wholly or in part from Project Foreground Information to any Third Party without the prior written consent of the U.S. Government. Furthermore, the other Participants will not permit any such sales, disclosure, or transfer by others, including the owner of the item, without the prior written consent of the U.S. Government. The other Participants recognize that sales, disclosures, or other transfers described in this paragraph will not be authorized by the U.S. Government unless the government of the intended recipient consents in writing that it will:

12.2.1. Not retransfer, or permit the further retransfer of, any equipment or Information provided.

12.2.2. Use, or permit the use of, the equipment or Information provided only for the purposes for which such equipment or Information is furnished.

12.3. Each Participant will retain its right to sell, transfer title to, disclose, or transfer possession of its Project

Background Information, provided it does not include any Project Foreground Information or Project Background Information of the other Participants.

12.4. A Participant will not sell, transfer title to, disclose or transfer possession of Project Background Information or Project Equipment provided by another Participant to any Third Party without the prior written consent of the Participant which provided such equipment or Information. The providing Participant will be solely responsible for authorizing such transfers and, as applicable, specifying the method and conditions for implementing such transfers.

12.5. Consent for Third Party sales and transfers of Project Foreground Information, Jointly Acquired Equipment, or any item produced either wholly or in part from Project Foreground Information will be subject to foreign policy, national security considerations, and national laws, regulations, and policies. The U.S. Government approval of another Participant's sale or transfer to a Third Party takes into account its willingness to sell or transfer such equipment or Information to the same Third Party.

12.6. The Participants anticipate that other governments may wish to buy equipment ultimately derived from the results of this MOU. The Participants recognize the advantages of their respective nations' industries working together to produce such equipment for sale to other governments.

12.7. Sales and other transfers to Third Parties of equipment developed under this MOU may attract a levy to be shared among the Participants. Prior to any such sale or other transfer, the amounts of any levy and the procedures for assessing and distributing such levy will be mutually determined by the Participants, consistent with the laws and regulations of each Participant. A Participant may reduce the assessment of its share of the levy.



SECTION XIII  
LIABILITY AND CLAIMS

13.1. Subject to multilateral and bilateral treaties and agreements of the Participants concerning liability for claims, when applicable, the following provisions will apply regarding liability arising out of, or in connection with activities carried out in the performance of official duty in the execution of this MOU and Supplements:

13.1.1. With the exception of claims for loss of or damage to Project Equipment, which is addressed in Section VII (Project Equipment), each Participant waives all claims against the other Participants in respect to injury to or death of its military or civilian personnel and for damage to or loss of its property (including jointly acquired property), caused by such personnel (which do not include Project Contractors) of another Participant. If, however, such injury, death, damage, or loss results from reckless acts or reckless omissions, willful misconduct or gross negligence of a Participant's personnel, the costs of any liability will be borne by that Participant alone.

13.1.2. Claims from any other persons for injury, death, damage or loss of any kind caused by one of the Participants' personnel will be processed by the most appropriate Participant, as determined by the Participants. Any costs determined to be owed the claimant will be borne by the Participants in the same ratios as their financial contributions to the Project. If, however, such liability results from the reckless acts or reckless omissions, willful misconduct or gross negligence of a Participant's personnel, the costs of any liability will be borne by that Participant alone.

13.2. If a person or entity, other than the Participants (including their personnel), damages Jointly Acquired Equipment, and the cost of making good such damage is not recoverable from such person or entity, such cost will be borne by the Participants in the same ratios as specified for their financial contributions in this MOU and the Supplements.

13.3. Claims arising under any Contract awarded under this MOU will be resolved in accordance with the provisions of the Contract. The Participants will not indemnify Contractors against liability claims by other persons.

SECTION XIV  
PARTICIPATION OF ADDITIONAL NATIONS

14.1. It is anticipated that other national defense organizations may wish to join this Project. The U.S. DoD will exchange with each of the other Participants side letters reflecting their mutual endorsement of a list of potential additional Participants for this MOU.

14.2. The Participants will discuss the arrangements under which another potential Participant might join, including the furnishing of releasable Project Information for evaluation prior to joining. If the disclosure of Project Information is necessary to conduct discussions, such disclosure will be in accordance with Section VIII (Disclosure and Use of Project Information), Section IX (Controlled Unclassified Information) and Section XII (Third Party Sales and Transfers).

14.3. The addition of a new Participant or Participants to this Project will be by an amendment to this MOU. Any such amendment will not alter the provisions of this MOU, except to make the changes requisite for the addition of the names of the Participant(s) to the MOU. A Participant may not withhold its written consent to such an amendment forwarded by the U.S. DoD to that Participant for signature, except in the case where the new Participant or Participants to be added by the amendment are not listed in the side letters referenced in paragraph 14.1.

14.4. Recognizing the importance of the benefits of additional Participants to the Project and the need for timely execution of the Project, the existing Participants will use their best efforts to sign amendments for the addition of a new Participant or Participants as quickly as possible. Such amendments will enter into effect upon the earlier of the following dates: (1) date of last signature of all the existing and new Participants; or (2) provided that the new Participant or Participants are listed in the side letters referenced in paragraph 14.1, the date by which the last signature of the U.S. DoD and the new Participant(s) has been obtained and a minimum of 30 days has elapsed from the time of the U.S. DoD's transmittal of the amendment to all Participants for signature.

14.5. Provisions for the addition of new Participants to a Supplement will be addressed, as necessary, in each Supplement.

SECTION XV  
CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

15.1. Customs duties, import and export taxes, and similar charges will be administered in accordance with each Participant's respective laws and regulations. Insofar as existing national laws and regulations permit, the Participants will endeavor to ensure that such readily identifiable duties, taxes and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with work carried out under this Project.

15.2. Each Participant will use its best efforts to ensure that customs duties, import and export taxes, and similar charges are administered in a manner favorable to the efficient and economical conduct of the work. If any such duties, taxes, or similar charges are levied, the Participant in whose country they are levied will bear such costs.

15.3. If, in order to apply European Union (EU) regulations, it is necessary to levy duties, then these will be met by the EU member end recipient. To this end, parts of the components of the equipment coming from outside the EU will proceed to their final destination accompanied by the relevant customs document enabling settlement of duties to take place. The duties will be levied as a cost over and above that Participant's shared cost of the Project.

SECTION XVI  
SETTLEMENT OF DISPUTES

16.1. Disputes between or among the Participants arising under or relating to this MOU or a Supplement thereto will be resolved only by consultation among the Participants to this MOU or the applicable Supplements and will not be referred to an individual, to a national court, to an international tribunal, or to any other person or entity for settlement.

SECTION XVII  
LANGUAGE

17.1. The working language for the Project will be the English language.

17.2. All Project Information generated under this MOU and its implementing Contracts and provided by one Participant to the other Participants will be furnished in the English language.

SECTION XVIII  
AMENDMENT, WITHDRAWAL, TERMINATION, ENTRY INTO EFFECT, AND  
DURATION

18.1. All activities of the Participants under this MOU and its Supplements will be carried out in accordance with their national laws and the responsibilities of the Participants will be subject to the availability of funds for such purposes.

18.2. No requirement will be imposed by any Participant for work sharing or other industrial or commercial compensation in connection with this MOU or its Supplements that is not in accordance with this MOU or its Supplements.

18.3. Except as otherwise provided, this MOU may be amended by the mutual written consent of the Participants. Except as otherwise provided in a Supplement, a Supplement may be amended only by the mutual written consent of the Participants who are signatories of that Supplement.

18.4. This MOU may be terminated at any time upon the written consent of the Participants. In the event of MOU termination, the Participants will consult prior to the date of termination to ensure termination on the most economical and equitable terms. Upon MOU termination, all Supplements will also be automatically terminated unless, prior to the termination date of this MOU, the Participants of a Supplement mutually consent to, and execute, the conversion by amendment of that Supplement into a stand-alone MOU.

18.5. An individual Supplement may be terminated by the written consent of the Participants of that Supplement upon their giving 90 days written notification to the other Participants of this MOU. In the event the Participants of a Supplement consent to terminating that Supplement, those Participants will consult prior to the date of termination to ensure termination on the most economical and equitable terms, and all Participants of this MOU will consult as to the impact upon the Project.

18.6. Any Participant may withdraw from this MOU and its Supplements upon 90 days written notification to the other Participants. Such notice will be the subject of immediate consultation by the EC to decide upon the appropriate course of action. In the event of such withdrawal, the following rules apply, except as may otherwise be specified in a Supplement for the case in which a Participant withdraws under prescribed

circumstances prior to the signature of the Contract awarded to the JSF prime Contractor:

18.6.1. The withdrawing Participant will continue participation, financial or otherwise, up to the effective date of withdrawal.

18.6.2. Except as to Contracts awarded on behalf of all the Participants, each Participant will be responsible for its own Project-related costs associated with the withdrawal of a Participant. For Contracts awarded on behalf of all the Participants, the withdrawing Participant will pay all Contract modification or termination costs that would not otherwise have been incurred but for the decision to terminate; in no event, however, will a withdrawing Participant's total financial contribution, including Contract termination costs, exceed that Participant's total Financial Cost share as established in Section V (Financial Provisions) of this MOU (for the U.S. DoD) and in the corresponding financial section of the withdrawing Participant's Supplement (for the other Participants).

18.6.3. All Project Information and rights therein received under the provisions of this MOU and its Supplements prior to the withdrawal will be retained by the Participants, subject to the provisions of this MOU and its Supplements.

18.7. The respective rights and responsibilities of the Participants regarding Section VII (Project Equipment), Section VIII (Disclosure and Use of Project Information), Section IX (Controlled Unclassified Information), Section XI (Security), Section XII (Third Party Sales and Transfers), and Section XIII (Liability and Claims), as well as corresponding sections in the Supplements, will continue notwithstanding termination of, withdrawal from, or expiration of this MOU or any of its Supplements.

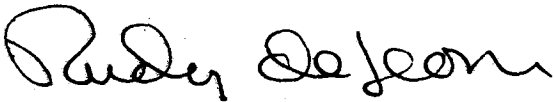
18.8. This MOU, which consists of eighteen Sections, will enter into effect from the date of the last signature of the representatives of the Secretary of Defense on behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland and will remain in effect for 15 years. It may be extended by written consent of the Participants.

The foregoing represents the understandings reached between the Secretary of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland.

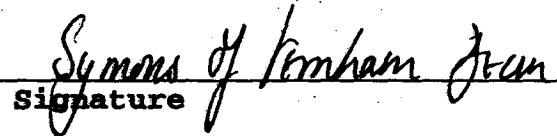
Signed in duplicate, in the English language, at Washington, D.C. on January 17, 2001, by authorized representatives.

FOR THE SECRETARY OF DEFENSE  
ON BEHALF OF THE DEPARTMENT OF  
DEFENSE OF THE UNITED STATES  
OF AMERICA

FOR THE SECRETARY OF STATE  
FOR DEFENCE OF THE UNITED  
KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND



**Signature**



**Signature**

Rudy de Leon

**Name**

The Right Honourable  
Baroness Symons of Vernham  
Dean

**Name**

Deputy Secretary of Defense

**Title**

Minister of State for  
Defence Procurement

**Title**